

REMARKS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

Claims 1-35 remain pending. Claims 7-12, 19 –23 and 27-35 have been withdrawn from consideration.

Formal drawings are submitted herewith and it is respectfully requested that they be substituted for the informal drawings originally filed. Approval of the herewith formal drawings in the next Official Communication is respectfully requested.

The Examiner noted that the references listed in the specification have not been considered unless cited by the Examiner on the Form PTO-892. The Japanese Patent Publication listed on page 1 of the specification was cited and supplied with the Information Disclosure Statement filed September 24, 2001. The U.S. Patent listed and incorporated by reference on page 2 of the specification is supplied herewith together with a Form PTO-1449 listing the same. The Rule 56 Information Disclosure Statement filing fee is submitted herewith. It is respectfully requested that the Examiner acknowledge consideration of the listed document in the next Official Action.

The Abstract of the Disclosure was objected to because the claimed invention is a method. The Abstract has been revised to obviate the grounds for this objections.

The disclosure was also objected to because of noted informalities. The typographical errors on page 14 have been corrected above. With respect to the preamble of dependent claims 2-6, 14-18, and 25-26, it is respectfully submitted that, in general, the article "A" or the article "The" may be used in the preamble of dependent claims. In view of the Examiner's objection, however, the noted dependent claims have been revised as requested by the Examiner.

The Examiner objected that the title of the invention is not descriptive. The title has been revised above to obviate the grounds for this objection. The title proposed by the Examiner has been adopted above.

Original claims 1-6,13-18 and 24-26 were rejected under 35 USC 103(a) as unpatentable over Bayha et al in view of Baudino et al. Applicant respectfully traverses this rejection.

A feature of the invention as defined in claims 1-6 is that cover 10 is pressed against the housing 19, the cover is tacked welded to the housing, and then the periphery of the cover is welded to the housing.

As recited in claims 13-18, the invention has the feature that the cover is pressed against the housing and then welded to the housing. As recited in claims 24-26, the cover is pressed against the housing to a given pressure level.

In order to prove obviousness, a challenger must present prior art references which disclose the claimed subject matter of the patent/application in question. If separate prior art references each disclose separate elements of a claim, the challenger must also show some teaching, suggestion, or incentive in the prior art that would have led one of ordinary skill in the art to make the claimed combination. See, e.g., Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 297 n.24, 304-05 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986). In determining obviousness, there must be some reason other than hindsight for selectively combining the prior art references to render the claimed invention obvious. See, e.g., Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143 (Fed. Cir. 1985).

With regard to the invention as recited in claims 1-6, Bayha and Baudio et al do not teach or in any way suggest the claimed step of tack welded the cover to the housing before the cover is welded to the housing. In this regard, claim 1 has been amended above to even more explicitly recite "tack welding" for emphasizing the noted

distinction between the invention and the teachings of the Bayha and Baudio references.

With regard to the invention as recited in claims 13-18, if the teachings of Bayha and Baudio are combined, a groove-forming process is required. More specifically, the Bayha structure has crimping indentations 20 of the closure shell 17 fitted in groove 16 of housing 11. Thus, Bayha does not teach or suggest and does not require tack welding the cover to the housing, nor welding the cover to the housing while pressing the cover. Instead, the cover is held in position by the crimping groove and indentations. Advantageously, the invention claimed does not require any groove and crimping indentations so that in accordance with the claimed invention, and the cover is welded to the housing without forming a groove in the housing. This results in a decreased manufacturing time and decreased manufacturing cost. It is therefore respectfully submitted that there is no disclosure of the invention specifically claimed in claims 13-18 in Bayha and Baudio.

With regard to claims 24-26, as noted above, Bayha and Baudio fail to teach pressing the cover against the housing much less to a given pressure level. It is therefore respectfully submitted that claims 24-26 are patentable over the combination of Bayha and Baudio.

It is clear that the initial burden of establishing a basis for denying patentability to a claimed invention rests upon the Examiner. In re Piasecki, 745 F. 2d 1468, 223 U.S.P.Q. 785 (Fed Cir. 1984). In establishing a *prima facie* case of obviousness under 35 U.S.C. § 103, it is incumbent upon the Examiner to provide a reason why one of ordinary skill in the art would have been led to arrive at the claimed invention from the prior art. Ex part Clapp, 227 U.S.P.Q. 972 (BPAI 1985). To this end, the requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and

not from applicant's disclosure. See, for example, Uniroyal, Inc. v. Rudkin-Wiley Corp. 837 F.2d, 7 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

Section 103 does not allow the Examiner to engage in picking and choosing from the prior art only to the extent that it will support a holding of obviousness, while excluding parts of the prior art essential to the full appreciation of what the prior art suggests to one of ordinary skill in the art. In re Wesslau, 147 USPQ 391 (CCPA 1975).

Because Bayha does not teach and does not require tack welding the cover or welding while pressing the cover against the housing, because of the presence of crimping indentations 20 and groove 16, it would be unobvious to modify Bayha to include the tack welding and/or pressing steps specifically claimed by applicant.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



Michelle N. Lester
Reg. No. 32,331

MNL:slj
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100